

Government of Odisha
General Administration & Public Grievance Department

RESOLUTION

No. 24188 /Gen., Bhubaneswar, dated, the 9th September, 2021.
PT1-GAD-SC-GCS-0093-2020

Subject:- Fixation of inter-se- seniority - the principles regarding.

The Hon'ble Supreme Court in judgement dated 19.11.2019 in K. Meghachandra Singh & Ors. vs Ningam Siro & Ors. have ruled at para-30 of the judgment that " ... the Court approved the view that *seniority is to be reckoned not from the date when vacancy arose but from the date on which the appointment is made to the post. The Court particularly held that retrospective seniority should not be granted from a day when an employee is not even borne in the cadre so as to adversely impact those who were validly appointed in the meantime.*"

It is further held by the Hon'ble Apex Court at para-40 of the said judgment that "... We also feel that *N.R. Parmar (Supra)* had incorrectly distinguished the long-standing seniority determination principles propounded in, *inter-alia, J.C. Patnaik (Supra), Suraj Prakash Gupta & Ors. vs. State of J&K & Ors. 5 and Pawan Pratap Singh & Ors. Vs. Reevan Singh & Ors. (Supra)*. These three judgments and several others with like enunciation on the law for determination of seniority (1991) 3 SCC 47 (2000) 7 SCC 561 Page 25/32 makes it abundantly clear that under Service Jurisprudence, seniority cannot be claimed from a date when the incumbent is yet to be borne in the cadre. In our considered opinion, the law on the issue is correctly declared in *J.C. Patnaik (Supra)* and consequently we disapprove the norms on assessment of inter-se seniority, suggested in *N. R. Parmar (Supra)*. Accordingly, the decision in *N.R. Parmar* is overruled. However, it is made clear that this decision will not affect the inter-se seniority already based on *N.R. Parmar* and the same is protected. This decision will apply prospectively except where seniority is to be fixed under the relevant Rules from the date of vacancy / the date of advertisement."

Accordingly, after consultation with the Law Department, the Government have been pleased to prescribe the following parameters to be followed henceforward for fixation of inter-se-seniority of the Government Servants:-

1. In the case of direct recruitment , the seniority of the candidates appointed out of a select list in a calendar year shall be arranged in the order in which their name appear in the merit list and shall be fixed in the said calendar year in which the appointment order is issued.

2. In the case of promotional Recruitment, the seniority of the promoted officers/ employees in a calendar year shall be arranged in the order in which their names appear in the select list and shall be fixed in the said calendar year in which the promotion order is issued.

3. In the case where Direct Recruitment, Promotional recruitment and/or selection recruitment are prescribed in a rank, the seniority of the candidates appointed in a calendar year out of the select lists so prepared shall be arranged in the order in which their names appear in the respective merit list/ select list and shall be fixed en-block in the calendar year in which the appointment orders are issued and in the sequence prescribed in the relevant Cadre Rules governing the Cadre.

4. The inter-se-seniority of the employees appointed under Rehabilitation Assistant Rules in a calendar year shall be fixed below the persons recruited and appointed in that grade or cadre in that particular year.

5. In case of merger of two or more cadres, where the inter-se seniority is required to be fixed among the persons appointed out of two or more select lists prepared in a particular calendar year, the persons appointed out of the select list prepared earlier shall be placed en-block senior to the persons appointed out of the select list prepared subsequently and so on.

6. The ratio of decision in K. Meghachandra Singh & Ors. vs Ningam Siro & Ors. case will apply prospectively except where seniority is to be fixed under the relevant rules from the date of vacancy / the date of advertisement. However, where the gradation list has already been finalized on the basis of the judgement in N. R. Parmar case, the same need not be revised as per observation of the Hon'ble Supreme Court at Para-40 of the Judgement in K. Meghachandra Singh & Ors. vs Ningam Siro & Ors. case.

7. Further, the promotions already allowed after 19.11.2019 i.e. the date of judgement in K. Meghachandra Singh & Ors. vs Ningam Siro & Ors. case till date (publication of this Resolution) on the basis of the already prepared final gradation list need not be reviewed again since protected.

8. The stipulations prescribed in GA & PG Department O.M. No. 26540/Gen., dated 20.09.2019 shall also be referred to at the time of fixation of inter-se-seniority.

This Resolution shall be effective from the date of issue.

By order of the Governor


Principal Secretary to Government.

ORDER- Ordered that the Resolution should be published in the extraordinary issue of the Odisha Gazette. Ordered also that copies of the Resolution be forwarded to all Departments of Government/ all Heads of Departments/ all Collectors for information and communication to all concerned.


Principal Secretary to Government.

Memo No. 24189 /Gen., Dated the 09th September, 2021

Copy forwarded to the Odisha Gazette Cell in-charge, Odisha Gazette Cell, C/o. Commerce Department for information with request to publish the Resolution in the extraordinary issue of the Odisha Gazette and supply 200 copies of the same to this Department for official use.

G. S. 9-9-2021
Additional Secretary to Government

Memo No. 24190 /Gen., Dated the 09th September, 2021

Copy forwarded to the Director of Printing, Stationery & Publication for information with a request to publish the Resolution in the extra-ordinary issue in the Odisha Gazette and Supply 200 copies to this Department for official use.

G. S. 9-9-2021
Additional Secretary to Government

Memo No. 24191 /Gen., Dated the 09th September, 2021

Copy forwarded to all Departments of Government for information and necessary action. It is requested to circulate the Resolution to all sub-ordinate offices functioning under their control.

G. S. 9-9-2021
Additional Secretary to Government

Memo No. 24192 /Gen., Dated the 09th September, 2021

Copy forwarded to all Heads of Departments/ all Collectors/ Registrar, Odisha High Court/ Special Secretary, Odisha Public Service Commission, Cuttack/ Secretary, Odisha Staff Selection Commission, Bhubaneswar/Secretary, Odisha Sub-ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.

The Director, Odisha Bhasa Pratisthan, Sanskruti Bhawan, State Museum Campus, Bhubaneswar-14 is requested to take action w.r.t. this Department Memo No. 30208/Gen., dated 24.10.2019.

G. S. 9-9-2021
Additional Secretary to Government

Memo No. 24193 /Gen., Dated the 09th September, 2021

Copy forwarded to all Branches of G.A. & P.G. Department / Guard file (10 copies)/ G.A. & P.G. Department Library (10 copies) for information and necessary action.

G. S. 9-9-2021
Additional Secretary to Government

Memo No. 24194 /Gen., Dated the 09th September, 2021

Copy forwarded to the G.A.&P.G. (A.R. Cell) Department with a request to post this Resolution in the website of G.A. & P.G. Department for general information.

G. S. 9-9-2021
Additional Secretary to Government